

## WARREN COUNTY BOARD OF SUPERVISORS

### COMMITTEE: LEGISLATIVE & RULES

DATE: AUGUST 6, 2008

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COMMITTEE MEMBERS PRESENT: OTHERS PRESENT:

SUPERVISORS THOMAS  
HASKELL  
TESSIER  
BENTLEY  
STEC  
MERLINO  
GIRARD

CHAIRMAN MONROE  
PAUL DUSEK, COUNTY ATTORNEY  
HAL PAYNE, COMMISSIONER OF ADMINISTRATIVE & FISCAL  
SERVICES  
JOAN SADY, CLERK OF THE BOARD  
SUPERVISORS GERAGHTY  
STRAINER  
PHIL TUCKER, REGIONAL REPRESENTATIVE FOR THE PAINTER'S  
UNION AND VICE-PRESIDENT OF THE GREATER CAPITAL  
REGION BUILDING & CONSTRUCTION TRADES COUNCIL  
SCOTT MARTEL, ORGANIZER OF PLUMBERS LOCAL UNION 773  
TOM RANDALL, *THE ADIRONDACK JOURNAL*  
AMANDA ALLEN, SR. LEGISLATIVE OFFICE SPECIALIST

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Mr. Thomas called the meeting of the Legislative & Rules Committee to order at 11:30 a.m.

Motion was made by Mr. Haskell, seconded by Mr. Tessier and carried unanimously to approve the minutes from the July 11, 2008 Committee meeting, subject to correction by the Clerk of the Board.

Copies of the agenda were distributed to the Committee members and a copy of same is on file with the minutes.

Mr. Thomas apprised that Agenda Item 2 consisted of a referral from the July 25, 2008 meeting of the Health Services Committee requesting a resolution be approved in favor of altering existing legislation to waive the 45-day waiting period for Medicaid admissions to the Countryside Adult Home. He explained that the request was based on the fact that the waiting period was causing problems with transferring people from the hospital to Countryside.

Hal Payne, Commissioner of Administrative & Fiscal Services, apprised that he had forwarded a letter to David Kruczynicki, President of Glens Falls Hospital who was trying to arrange a meeting to discuss the issue with the Hospital's Discharge Planning staff, as well as representatives from Countryside Adult Home and the Westmount Health Facility. He added that Mr. Kruczynicki was very interested in rectifying this situation as Glens Falls Hospital incurred considerable costs for each day these patients remained in the Hospital rather than being transferred to Adult Homes.

Mr. Girard pointed out that the letter included in the agenda was not addressed to any specific party, nor was it signed, and he questioned who had written the letter as well as whom it would be sent to. Mr. Payne advised that Sheila Weaver, Administrator of the Department of Social Services, had

drafted the letter which would be used to prepare the resolution with the Committee's approval.

Joan Sady, Clerk of the Board, apprised that the 45-day waiting period was a requirement of the Safety Net Program under which the individuals in question were applying. Mr. Payne added that there were only six County-owned adult care facilities in the State of New York, all of which faced the same issue. Therefore, he said, the resolution would ask that the State Legislature change the law to waive the 45-day waiting period to make patient transition from hospital to adult care facility proceed more quickly.

Motion was made by Mr. Haskell, seconded by Mr. Tessier and carried unanimously to approve the request for a resolution asking that the 45-day waiting period for Medicaid admissions to the Countryside Adult Home be waived and the necessary resolution was approved for the August 15<sup>th</sup> Board meeting.

Continuing, Mr. Thomas apprised that Agenda Item 3 referred to a request to consider support of a resolution opposing NYSDEC's (New York State Department of Environmental Conservation) plan for disposing and transporting toxic waste to Niagara County.

Mr. Stec stated that this agenda item had been included at his request as a resident of the Niagara County area had recently spoken to the Queensbury Town Board regarding the issue and had requested their support in opposing NYSDEC's disposing of toxic waste in that area. He said that subsequent to the presentation, he had agreed to address the matter in Committee. Mr. Stec noted that the local significance of this issue was that currently a site located on Luzerne Road in the City of Glens Falls was undergoing a contamination remediation process through which PCB contaminated soil was being removed and transported to a landfill site in Niagara County for disposal. Therefore, he stated, although he was presenting the issue for their review, it might be a conflict of interest for the County to approve a resolution opposing the transport of toxic waste to Niagara County when waste from Warren County was bound for that site. Mr. Stec added that a copy of the resolution approved by Erie County in support of the opposition was included in the agenda packet for the Committee's review.

Paul Dusek, County Attorney, stated that he did not feel that it was in the best interest of the County, the City of Glens Falls or the Town of Queensbury to approve a resolution opposing the issue, as they intended to ship waste to the site. He said this was a direct conflict of interest and he did not suggest that the resolution be approved.

Subsequent to discussion on the matter, it was the consensus of the Committee that no action would be taken on this issue.

Mr. Thomas stated that Agenda Item 4 referred to Resolution No. 409 of 2008 "Urging the New York State Legislature to Amend or Repeal the Requirements of the Prevailing Wage Law Making Government Sponsored Work More Competitive and Less Costly" which was tabled at the June 20,

2008 Board of Supervisors meeting. He noted that Phil Tucker, Regional Representative for the Painter's Union and Vice-President of the Greater Capital Region Building & Construction Trades Council, was in attendance to speak in favor of the Prevailing Wage Law.

Mr. Tucker presented each of the Committee members with a packet of information pertaining to Prevailing Wage Law, a copy of which is on file with the minutes, and he asked that the Committee members review this information prior to making any further decisions on the proposed Resolution.

In an effort to fully define the meaning of prevailing wages, Mr. Tucker read from the Prevailing Wage Law as follows: "NYSDOL (New York Department of Labor) recognizes prevailing wages as a minimum rate of compensation for different work classifications." He explained that the rate of compensation was usually established using the Collective Bargaining Agreements derived in each area and was posted by County with annual updates. Mr. Tucker said that he felt the phrase "prevailing wage" was a bit of a misnomer as one might assume that it pertained solely to wages when it also included supplemental benefits such as pension and health insurance. He added that as per Article 23 of the NYSDOL Labor Law, it is the declared public policy of the State of New York to develop sound apprenticeship standards and to encourage industry and labor to institute training programs. In addition, Mr. Tucker stated that the use of apprentices at a reduced rate of pay was also allowed and that one apprentice was allowed for each journeyman on a particular job site. He added that the rate of pay for the apprentice was approximately half of the rate paid for a journeyman, and those rates increased with the amount of schooling and apprenticeship attained, which usually lasted for 3-5 years. Mr. Tucker noted that these were important items to consider when entering into a project where prevailing wages applied.

Mr. Tucker stated that opponents of the Prevailing Wage Law would argue that prevailing wages actually increased costs of construction projects; however, he said, through extensive research on the internet he had been unable to find any conclusive evidence to this effect. He cited that prevailing wages had been required for the construction of the Public Safety Building, a construction project that had been completed on schedule and under the estimated budget. Mr. Tucker noted that studies had shown that repealing prevailing wages for construction projects lowered the quality of construction and incurred increased cost over-runs, while the use of prevailing wage rates promoted more cost effective construction and a safer work place as well. He summarized that repealing the Prevailing Wage Law would promote a low-scale, low-rate workforce with inadequate training and little or no health care coverage or retirement security. Eventually, Mr. Tucker stated, these factors and the lower income resulting would lead to a greater demand for public assistance services as well as less State income and sales tax generated. He noted that if the Prevailing Wage Law was repealed, it would have no effect on the Collective Bargaining Unit agreements between the Unions and the Contractors Associations, which ensured wages and benefits as part of the agreements and could not be altered; therefore, he said, they would continue to bid construction projects with these wages and benefit costs in mind.

In closing, Mr. Tucker thanked the Committee for allowing him to speak on the matter and he asked

that they reject the proposed resolution as it pertained to altering the Prevailing Wage Law.

Mr. Merlino pointed out that recently an issue had arisen with a proposed contract to repair and install a train signal along the Warren County rail line, at which time the contractor had proposed that the work could be completed for \$15,000; however, he added, once it had been determined that prevailing wage rates had to be paid for the job, the quoted price had increased to \$30,000 for the same work. In this instance, he said, it appeared that prevailing wage rates did increase project costs. Additionally, Mr. Merlino noted that in small towns such as Lake Luzerne, there were people perfectly able to provide project services but in cases where prevailing wage rates were required they were unable to bid the project based on the bonding requirements; therefore, he said, workforces from other parts of the State were brought in to perform the jobs, thereby taking them away from local people.

Mr. Bentley stated that a new roof had been installed on the Horicon Town Hall Building which was supposed to last for 20 years. However, he said, after only a couple of years there were significant leaks which they had been unable to find anyone to fix. Mr. Bentley said that prevailing wage rates had been required in this construction project, proving that quality work was not guaranteed by the Prevailing Wage Law.

Mr. Tucker apprised that while the Prevailing Wage Law required that a certain wage be paid for services and encouraged enhanced training, it did not require such; therefore, private contractors with less experience and training than their Union counterparts could bid for prevailing wage projects and receive the appropriate pay while giving a less than adequate service in return. Mr. Tucker suggested that when bidding projects they include a clause which stated that contracts would be awarded to the "lowest responsible bidder" allowing for the lowest bidder with the most experience to be chosen for the project. Mr. Bentley replied that this provision was included in all County bids.

Chairman Monroe stated that the main problem with the Prevailing Wage Law was that the wages specified did not seem to be what was prevailing in the area. He added that if the wages required were closer to what was actually being paid regionally there would not be so much opposition.

Extensive discussion ensued with respect to the matter.

Motion was made by Mr. Stec and seconded by Mr. Merlino to return Resolution No. 409 of 2008 to the full Board of Supervisors at their August 15<sup>th</sup> meeting, with Messrs. Girard and Haskell voting in opposition and Messrs. Bentley, Tessier and Thomas not voting. Motion failed.

Mr. Dusek noted that because the motion had failed the issue was still in Committee and a second motion would be required if the Committee desired to take any further action.

Mr. Stec stressed that Resolution No. 409 of 2008 asked the State Legislature to amend or repeal the

requirements of the Prevailing Wage Law. He said that a vote in favor of the resolution would indicate that one felt there were issues with the Law that required attention and review, while a vote against would indicate that the Law was correct and needed no revisions. Mr. Stec added that it was obvious that there were issues with the Prevailing Wage Law and while he was not saying that it should be repealed, he did feel that it should be reviewed for improvement.

Motion was made by Mr. Stec and seconded by Mr. Tessier to reintroduce Resolution No. 409 of 2008 at the August 15<sup>th</sup> Board meeting for discussion purposes.

Mr. Bentley suggested that by altering the Prevailing Wage Law the State Legislature might include language requiring specific experience or training so that quality workmanship was received in connection with all construction projects requiring prevailing wages.

Subsequent to further discussion on the matter, Mr. Thomas called the question and the motion was carried by majority vote with Messrs. Haskell, Tessier and Girard voting in opposition.

Mr. Haskell advised that he would be absent from the August 15<sup>th</sup> Board meeting and he asked if the matter could be postponed until the September Board meeting, to which Mr. Dusek replied in the negative. Mr. Tessier noted that although the item had to be presented, it could be tabled at the Board meeting.

Mr. Dusek left the meeting at 12:30 p.m.

Resuming the agenda review, Mr. Thomas advised that Item 5 referred to the Economic Zone Plan for the Adirondacks, which he asked Chairman Monroe to speak on. Chairman Monroe apprised that although the Adirondack Park Agency (APA) had a Use Plan in place which regulated land use, it did not have an Economic Plan in place and he felt there should be in light of the state of the economy. He said that although it had initially been thought that the APA should administer the Economic Plan, it was later decided that they were not equipped to do so and that another group should be appointed to address the matter. Chairman Monroe stated that William Farber, President of the Adirondack Association of Towns and Villages, had been appointed to head a Steering Committee to review issues pertaining to this region and he believed that an Economic Development Plan was necessary also and he was working to establish a sub-group of the Steering Committee, made up of experts in the economic development field such as Leonard Fosbrook, President of the Warren County Economic Development Committee, William Osborne, President of the Hamilton County Economic Development Committee, and others with such expertise. He cited that the Steering Committee did not have the expertise in Economic Development; therefore, it had been determined that the sub-committee was necessary.

Chairman Monroe said that he had asked that the issue be added to the agenda for the Committee's consideration and support of the issue, which would be referred to the Steering Committee and further referred to a working group. He said that there were a number of experts willing to work on

the development of an Economic Development Plan, which if approved by the Steering Committee, would have considerable clout with the State Legislature and with Empire State Development.

Motion was made by Mr. Haskell and seconded by Mr. Bentley to support the establishment of a sub-Steering Committee for the development of an Economic Development Plan for the Adirondacks for discussion purposes.

Mr. Haskell questioned if the representatives chosen for the sub-Committee would be from the north country. Chairman Monroe apprised that the members of the Steering Committee had already been appointed but the sub-Committee would be comprised of some local people who had the best interests of the area at heart.

Discussion ensued.

Mr. Thomas called the question and the motion was carried unanimously to approve a resolution in support of a sub-Steering committee as outlined above.

Mr. Tessier noted that in previous meetings the Committee had discussed possibly sending a letter to the Governor opposing the purchase of any additional property in the Adirondacks and he asked if that had been acted upon, to which Mr. Haskell replied in the negative. Mr. Tessier suggested that if the letter was drafted, further notations should be included to oppose the State's purchasing of land through conservation easements. He added that Senator Little had taken a similar position against additional land purchases and Mr. Tessier said he thought a resolution supporting her position should be approved.

Motion was made by Mr. Haskell, seconded by Mr. Stec and carried unanimously to authorize a resolution in favor of a freeze on the purchase of land and easements by the State based on the current financial climate and the necessary resolution was authorized for the August 15<sup>th</sup> Board meeting.

Motion was made by Mr. Bentley, seconded by Mr. Haskell and carried unanimously to authorize a resolution in opposition to the Legislation being considered by the State to ban open burning for brush and clean wood throughout the State of New York and the necessary resolution was authorized for the August 15<sup>th</sup> Board meeting.

Concluding the agenda review, Mr. Thomas apprised that there were two items pending from prior Committee meetings, both of which pertained to matters being handled by Mr. Dusek. As Mr. Dusek had left the meeting, Mr. Thomas advised that the items would be addressed at the next Committee meeting.

Mr. Thomas advised that there was a final item for discussion which had been referred from the Personnel Committee meeting held earlier that morning. He explained that as indicated by Bud

York, Sheriff, there was Legislation in place which prevented pods at the Correctional Facility from being closed regardless of the number of inmates being housed. Mr. Thomas said that if the Legislation was changed to allow for pods to be closed when not in use, there was the potential for savings as the staffing levels therein could be reduced.

Mr. Haskell asked if any verification had been made that there was such legislation in place and Chairman Monroe replied that these were the facts stated by Sheriff York and Shane Ross, Chief Deputy, at the Personnel Committee meeting; however, he said, the regulation had not been verified. He added that prior to forwarding a resolution requesting a change in Legislation it might be wise to ask Mr. Dusek to research the matter for verification. Chairman Monroe noted that requests to fill four Correction Officer (CO) positions had been approved at the Personnel Committee meeting which might not have been necessary if they were able to close pods when not in use.

Mr. Payne pointed out that when the Public Safety Building was designed, a representative from the NYSDOC (New York State Department of Corrections) had reviewed the plans and determined the number of pods necessary to appropriately separate inmates, as well as the number and placement of CO's in the facility. Chairman Monroe asked if these standards were required regardless of the number of inmates housed and Mr. Payne replied affirmatively.

Mr. Bentley interjected that he recalled that in the past Larry Cleveland, former Sheriff, had spoken of a proposal offered by a downstate County which would allow for their best inmates to be housed at the Warren County Public Safety Building as their jail was constantly overfull.

Motion was made by Mr. Haskell, seconded by Mr. Tessier and carried unanimously to approve a resolution requesting that Legislation regarding the use of pods in correctional facilities be altered to allow for them to be closed when not filled to capacity, pending review and confirmation of the Legislation by the County Attorney, and the necessary resolution was authorized for the August 15<sup>th</sup> Board meeting.

As there was no further business to come before the Legislative & Rules Committee, on motion made by Mr. Haskell and seconded by Mr. Stec, Mr. Thomas adjourned the meeting as 12:59 p.m.

Respectfully submitted,  
Amanda Allen, Sr. Legislative Office Specialist